

Ser. No. 10/772,063
Response to Office Action of 05/18/2006

Attorney Docket: D0932-00447

REMARKS

Claims 1-10, 12-17 and 38-41 are pending.

All pending claims are rejected.

Applicant thanks the examiner for the courtesies extended to Applicant's attorney, Won Joon Kouh (Reg. No. 42,763), during the telephonic interview held on August 3, 2006. During the interview, Applicant's attorney presented the amendments to the claims in draft form and the examiner agreed that the amended claims would overcome the rejection of the claims based on the Fay and Lewis references cited in the Office Action. Accordingly, Applicant submits herewith amendments to the claims in which claims 1, 14, and 38-41 are amended, claims 7 and 12 are canceled and new claims 42-50 are added.

Claim Rejections under 35 U.S.C. § 103

Claims 1-10, 12-17, and 38-41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. published patent application No. 2004/0185204 to Fay et al. ("Fay") in view of U.S. Patent No. 4,105,431 to Lewis et al. ("Lewis") and as evidenced by Furnacecompare.com and Progress-energy.com.

In response, independent claims 1, 14 and 38-41 are amended. The amended claims now all require that the antifungal/antimicrobial agent included in the building insulation is

one or more compounds selected from the group consisting of: chlorine, organo-mercurials, chlorinated phenols, organo-bromides, organo-sulphur compounds, copper sulfate, 2, 4, 4'- trichloro-2' hydroxydiphenol, 5-chloro-2-(2, 4-dichlorophenoxy) phenol; diiodomethyl-p-tolylsulfone; 2-bromo-2 nitropropane-1, 3-diol (BNPD); sodium 2-pyridinethiol-1-oxide (PEO); 3-iodo-2 propynyl-butyl carbamate; phenyl-(2-cyano-2 chlorovinyl) sulfone; N, N-dimethyl-N'-phenyl-(N'-fluorodichloromethylthio) sulfamide; 2, 2-dibromo-2-

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nitrilopropionamide; 3,4-dichloro-1, 2-dithiol-3-one; N-4-dihydroxy-alpha-oxobenzene-ethanimidoyl chloride; methylene-bis-thiocyanate; dodecylguanidine hydrochloride; sodium 2-pyridinethiol-1-oxide; trihaloalkyl sulfone; bis (trichloro methyl) sulfone (BTCMS), chlorhexidine; polyhexamethylene biguanide (PHMB), glutaraldehyde, and derivations, homologues and combinations thereof. (bold emphasis added). Thus, the amended claims now recite the possible compounds for the antifungal/antimicrobial agents that were recited in the now-canceled claim 7 but now in *Markush* group format. Notably, the *Markush* group excludes any isothiazolone-based compounds.

In contrast, however, as noted by the examiner, the teachings of Lewis is limited to the use of isothiazolone-based materials as the biocide agent. (See Lewis's title and at col. 31, line 40 – col. 32, line 38; see Office Action at page 4, paragraph "F"). Thus, the Fay and Lewis references, whether taken singly or in combination, do not teach or suggest the invention of amended claims 1, 14 and 38-41. Therefore, independent claims 1, 14 and 38-41 are allowable over the references.

Claims 2-10, and 13 depend from amended claim 1 which is allowable over the cited references. Because dependent claims incorporate all limitations of their parent claim, claims 2-10, and 13 are also allowable over the cited references.

Claims 15-17 depend from amended claim 14 which is allowable over the cited references. Because dependent claims incorporate all limitations of their parent claim, claims 15-17 are also allowable over the cited references.

The rejection of claims 7 and 12 are moot because they have been canceled without prejudice.

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New Claims

New independent claim 42 and claims 43-50 depending therefrom are added. The new claim 42 is directed to a building insulation as in amended claim 1, except that the new claim 42 recites "wherein said antifungal/antimicrobial agent consists of a mixture of methylene-bis-thiocyanate and dodecylguanidine hydrochloride as active ingredients" which are two of the compounds listed in the *Markush* group of amended claim 1. Therefore, the new claims 42-50 are also allowable over the cited references, Fay and Lewis.


The new claims are fully supported by the disclosure of the specification as originally filed and no new matter is added. For example, the support for the new independent claim 42 can be found in paragraph [0026] of the specification.

Conclusion

In view of the above, Applicant believes that the amended claims submitted herein are allowable over the cited references. Reconsideration of the present application, withdrawal of the rejections and allowance of all pending claims are kindly requested.

Respectfully submitted,

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